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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MARIA EUGENIA PROTOPAPAS
and ANTHONY GERALD KING

Appeal 2017-008404
Application 13/241,680[1]
Technology Center 2400

Before CARLA M. KRIVAK, HUNG H. BUI, and JON M. JURGOVAN, *Administrative Patent Judges*.

JURGOVAN, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants seek review under 35 U.S.C. § 134(a) from a Final Rejection of claims 1–7, 9–17, and 21, which are all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.[2]

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[1] Appellants identify Ford Global Technologies, LLC as the real party in interest. (App. Br. 2.)

[2] Our Decision refers to the Specification ("Spec.") filed September 23, 2011, the Final Office Action ("Final Act.") mailed July 19, 2016, the Appeal Brief ("App. Br.") filed December 5, 2016, the Examiner's Answer ("Ans.") mailed March 17, 2017, and the Reply Brief ("Reply Br.") filed May 17, 2017.

CLAIMED INVENTION

The claims are directed to methods and systems for "meeting location management" of meeting notifications "lacking a meeting location designation." (Spec. ¶ 1; Abstract.) The methods and systems "search[] at least one website for a possible meeting location," "select[] at least one possible meeting location from the at least one website based at least in part on one or more meeting attendees or a domain name associated with a meeting planner," "present[] the at least one possible location for verification," and "utiliz[e] a verified location as the meeting location designation." (Abstract.)

Claims 1, 13, and 21 are independent. Claim 1, reproduced below, is illustrative of the claimed subject matter:

> 1. A computer-implemented method comprising:
>
> receiving a meeting notification lacking a meeting location designation;
>
> automatically selecting a location, using a computer including selection programmed logic circuitry, from a meeting-attendee company website based on a meeting-attendee work-address listed on the website associated with the meeting-attendee;
>
> presenting, by presentation circuitry, the location for verification; and
>
> utilizing the location, having been verified, as the meeting location designation.

(App. Br. 12.)

REJECTIONS & REFERENCE

(1) Claims 1–7, 9–17, and 21 stand rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. (Final Act. 2–4.)

(2) Claims 1–7, 9–17, and 21 stand rejected under 35 U.S.C. § 102(b) based on Sommers et al., (US 2008/0177611 A1, published July 24, 2008, "Sommers"). (Final Act. 4–7.)

ANALYSIS

Rejection of claims 1–7, 9–17, and 21 under 35 U.S.C. § 101 as being directed to non-statutory subject matter

Patent eligibility is a question of law that is reviewable *de novo*. *Dealertrack, Inc. v. Huber*, 674 F.3d 1315, 1333 (Fed. Cir. 2012). Patentable subject matter is defined by 35 U.S.C. § 101 as follows:

> [w]hoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

In interpreting this statute, the Supreme Court emphasizes that patent protection should not preempt "the basic tools of scientific and technological work." *Gottschalk v. Benson*, 409 U.S. 63, 67 (1972); *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 71 (2012); *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2354 (2014). The rationale is that patents directed to basic building blocks of technology would not "promote the progress of science" under the U.S. Constitution, Article I, Section 8, Clause 8, but instead would impede it. Accordingly, laws of nature, natural phenomena, and abstract ideas are not patent-eligible subject matter. *Thales Visionix Inc. v. U.S.*, 850 F.3d 1343, 1346 (Fed. Cir. 2017) (citing *Alice,* 134 S. Ct. at 2354).

The Supreme Court set forth a two-part test for subject matter eligibility in *Alice*. 134 S. Ct. at 2355. The first step is to determine

whether the claim is directed to a patent-ineligible concept. *Id.* (citing *Mayo*, 566 U.S. at 76–77). If so, then the eligibility analysis proceeds to the second step of the *Alice/Mayo* test, in which we "examine the elements of the claim to determine whether it contains an 'inventive concept' sufficient to 'transform' the claimed abstract idea into a patent-eligible application." *Alice*, 134 S. Ct. at 2357 (quoting *Mayo*, 566 U.S. at 72, 79). The "inventive concept" may be embodied in one or more of the individual claim limitations or in the ordered combination of the limitations. *Alice*, 134 S. Ct. at 2355. The "inventive concept" must be significantly more than the abstract idea itself, and cannot be simply an instruction to implement or apply the abstract idea on a computer. *Alice*, 134 S. Ct. at 2358. "'[W]ell-understood, routine, [and] conventional activit[ies]' previously known to the industry" are insufficient to transform an abstract idea into patent-eligible subject matter. *Alice*, 134 S. Ct. at 2359 (citing *Mayo*, 566 U.S. at 73).

The Examiner finds the claims are directed to the abstract idea of "selecting a meeting location" by "making reservations from available meeting locations at [a] work address of an attendee," which is a process performable by a human being. (Final Act. 3–4; *see also* Ans. 5, 7.) The Examiner further finds the features that Appellants rely on to establish the claim is "significantly more" than the judicial exception are actually "well known ancillary computer elements"—including "a computer, or processor, selection programmed logic circuitry, [and a] company website or presentation circuitry"—providing "generic general purpose components and functions[] for directing the generic general purpose components to implement the abstract idea by performing basic functions of the generic general purpose components." (Final Act. 3; Ans. 7.)

Appellants assert claims 1–7, 9–17, and 21 are not directed to an abstract idea because "the claims, at a minimum, do not tie up the identified abstract idea of 'making reservations from available meeting locations at the work address of an attendee' such that others cannot practice it"; rather, "at least one version of the abstract idea that is *not* tied up by the claims exists," and "[i]f the claim **does not tie up the identified judicial exception so that others cannot practice it**, then the claim is patent eligible." (App. Br. 6–8.) We do not agree.

We agree with and adopt the Examiner's findings as our own (*see* Final Act. 2–4; Ans. 3–8.) Particularly, we agree with the Examiner that Appellants' claim 1 is reasonably characterized as directed to an abstract idea of "selecting a meeting location" by "making reservations from available meeting locations at the work address of an attendee," which is a process readily performable by a human being. (Final Act. 3–4.) All the components recited in claim 1—including: (i) receiving a meeting notification lacking a meeting location designation; (ii) selecting a location from a meeting-attendee company website based on a meeting-attendee work-address listed on the website associated with the meeting-attendee; (iii) presenting the location for verification; and (iv) utilizing the location as the meeting location designation—are consistent with an algorithm readily performed mentally or by pen and paper by a human being. *See CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1372–73 (Fed. Cir. 2011) ("[A] method that can be performed by human thought alone is merely an abstract idea and is not patent-eligible under § 101."); *see also In re Comiskey*, 554 F.3d 967, 979 (Fed. Cir. 2009) ("[M]ental processes–or processes of human thinking–standing alone are not patentable even if they

have practical application."); *Benson*, 409 U.S. at 67 ("Phenomena of nature . . . , *mental processes*, and abstract intellectual concepts are not patentable, as they are the basic tools of scientific and technological work" (emphasis added)). Additionally, mental processes remain unpatentable even when automated to reduce the burden on the user of what once could have been done with pen and paper. *CyberSource*, 654 F.3d at 1375 ("That purely mental processes can be unpatentable, even when performed by a computer, was precisely the holding of the Supreme Court in *Gottschalk v. Benson*.").

Furthermore, data analysis and algorithms are abstract ideas. *See, e.g.*, *Alice*, 134 S. Ct. at 2355; *Parker v. Flook*, 437 U.S. 584, 589, 594–95 (1978) ("Reasoning that an algorithm, or mathematical formula, is like a law of nature, *Benson* applied the established rule that a law of nature cannot be the subject of a patent."); *Benson*, 409 U.S. at 71–72. That is, "[w]ithout additional limitations, a process that employs mathematical algorithms to manipulate existing information to generate additional information is not patent eligible." *Digitech Image Techs., LLC v. Elecs. for Imaging, Inc.*, 758 F.3d 1344, 1350–51 (Fed. Cir. 2014) ("Data in its ethereal, non-physical form is simply information that does not fall under any of the categories of eligible subject matter under section 101.").

With respect to Appellants' preemption arguments (App. Br. 6–8), we note the following. It is true that the Supreme Court has characterized preemption as a driving concern for patent eligibility. *See Alice*, 134 S. Ct. at 2354. However, characterizing preemption as a driving concern for patent eligibility is not the same as characterizing preemption as the sole test for patent eligibility. "The Supreme Court has made clear that the principle of preemption is the basis for the judicial exceptions to patentability" and "[f]or

this reason, questions on preemption *are inherent in and resolved by the § 101 analysis*." *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015) (emphasis added) (citing *Alice*, 134 S. Ct. at 2354). However, "[w]hile preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility." *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1098 (Fed. Cir. 2016) (quoting *Ariosa Diagnostics*, 788 F.3d at 1379); *see also OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362–63 (Fed. Cir. 2015) ("[T]hat the claims do not preempt all price optimization or may be limited to price optimization in the e-commerce setting do not make them any less abstract."), *cert. denied*, 136 S. Ct. 701 (2015). Independent claims 13 and 21 recite additional steps (claim 13) or similar steps (claim 21) that are readily performable by a human being, and these claims follow the same analysis as claim 1.

Accordingly, we agree with the Examiner the claims are directed to the abstract idea of selecting a meeting location by making reservations from available meeting locations at attendees' work addresses.

Under step two of the *Alice* framework, we agree with and adopt the Examiner's findings on pages 5–8 of the Answer. We determine that the additional limitations, taken individually and in the ordered combination, do not add significantly more to the abstract idea or transform the abstract idea into patentable subject matter. Particularly, claim 1 recites well-understood, routine, and conventional elements (i.e., a computer including selection programmed logic circuitry, a company website, and presentation circuitry), which "implement the abstract idea by performing basic functions of the generic general purpose components." (Ans. 7.)

Appellants respond, "*even if* the claim contains an abstract idea, an uncommon or atypical approach to the solution is sufficient to overcome the threshold" of "something more" under step two of the *Alice* framework. (Reply Br. 2.) Appellants argue their claimed approach for "population of a meeting attendee address" is "*not a long-standing conventional approach*," and the Examiner has not demonstrated "any long-standing industry standard or approach reflecting automatic population of a meeting attendee address selected from a *website* listing of the meeting attendee work address." (Reply Br. 2.) Appellants' argument is not persuasive because Appellants have not identified an inventive concept that would be "significantly more" than the abstract idea of selecting a meeting location by making reservations from available locations at attendees' work addresses.

Here, Appellants' claimed "automatically selecting a location, using a computer including selection programmed logic circuitry, from a meeting-attendee company website based on a meeting-attendee work-address listed on the website associated with the meeting-attendee" automates a mental or manual process of selecting available meeting locations from a company website based on attendees' work addresses. However, as discussed *supra*, mental processes remain unpatentable even when automated to reduce the burden on the user of what once could have been done with pen and paper. *Alice*, 134 S. Ct. at 2359 ("[T]he claims at issue amount to 'nothing significantly more' than an instruction to apply the abstract idea of intermediated settlement using some unspecified, generic computer." (quoting *Mayo*, 566 U.S. at 79)); *see also CyberSource*, 654 F.3d at 1375; *FairWarning IP*, 839 F.3d at 1096 (citing *DDR Holdings, LLC, v. Hotels.com, L.P.*, 773 F.3d 1245, 1256–57 (Fed. Cir. 2014)) ("[T]he use of

generic computer elements like a microprocessor or user interface do not alone transform an otherwise abstract idea into patent-eligible subject matter"); *Dealertrack*, 674 F.3d at 1333–34 ("[s]imply adding a 'computer aided' limitation to a claim covering an abstract concept, without more, is insufficient to render [a] claim patent eligible" (internal citation omitted)); and *OIP Techs.*, 788 F.3d at 1363 ("[R]elying on a computer to perform routine tasks more quickly or more accurately is insufficient to render a claim patent eligible").

Thus, we agree with the Examiner that independent claims 1, 13, and 21 are not directed to patent-eligible subject matter. No separate arguments are presented for the dependent claims 2–7, 9–12, and 14–17, which fall with independent claims 1 and 13. 37 C.F.R. § 41.37(c)(1)(iv). We, therefore, sustain the rejection under 35 U.S.C. § 101 of claims 2–7, 9–12, and 14–17.

Rejection of Claims 1–7, 9–12, and 21 under 35 U.S.C. § 102(b)

Appellants contend the Examiner erred in finding Sommers discloses all the limitations of independent claim 1. (App. Br. 8–10; Reply Br. 2.) Particularly, Appellants assert Sommers does not disclose "automatically selecting a location, using a computer including selection programmed logic circuitry, from a meeting-attendee company website based on a meeting-attendee work-address listed on the website associated with the meeting-attendee" as claimed. Rather, Sommers merely discloses manual selection of a meeting location by an attendee based on the attendee's personal preference, not "automatic selection of a work address listed on a website associated with the attendee." (App. Br. 9.) Appellants additionally argue

Sommers does not teach a "work address listed on a website associated with the attendee," and does not teach location selection "*based on a meeting-attendee work-address listed on the website*." (App. Br. 9–10.) We do not agree.

We agree with and adopt the Examiner's findings as our own. Particularly, we agree with the Examiner that Sommers teaches "automatically select[ing] a location" as claimed because Sommers' system automatically collects one or more possible meeting locations and presents the collected location(s) as selectable options for an upcoming meeting. (Ans. 10 (citing Sommers ¶¶ 14, 19, 34–35, 40–41, 51–52, 54, Figs. 1, 2A–2B, 3).) In particular, Sommers' "system automatically calculates whether a Meeting Consensus has been reached" after "each Meeting Attendee responds to the Meeting Invitation and indicates which Meeting Locations they can attend." When the system determines that "a consensus has been reached on one or more Meeting Location," the system issues an electronic mail message to the Meeting Coordinator indicating potential Meeting Location(s) for the meeting. (*See* Sommers ¶¶ 14, 52, 54; *see also* Sommers ¶ 35 (describing a "Meeting Consensus").) Sommers' *automatically collecting and presenting (by the system) meeting location options* is commensurate with the broad description of "*automatically selecting a location*" in Appellants' Specification. (Ans. 9–10 (citing Spec. ¶¶ 39–42, 52–53).) That is, Appellants' Specification provides that, "[i]f there is no location . . . the process will attempt to obtain the location. . . . through 'less obtrusive' processes" such as

> the process [that] first checks a contact list, address book, database, etc. for possible addresses. . . . For example, if four addresses are found relating to invitees (which may or may not

> include the person running the process), *a list of possible addresses can be presented to the user* for verification/selection.
> . . .
> Company websites, company contact lists/databases, domain registrations for domain names, social media, etc. *can all potentially be polled for a list of addresses*. . . . Or, in another non-limiting example, a social media site such as LINKEDIN may contain a business address for one or more recipients. Domain registration sites may be useful in the case of small businesses, with only one location, as may company websites with an address *easily accessible by a bot designed to parse the site*. Numerous online resources can be *utilized in the "background" to find one or more addresses 215 to present to a user* for selection/verification.
> . . .
> [T]he process is *searching the interne*[sic] *for possible addresses. This is just one of many possible ways to "automatically" obtain an address*. . . . First, in this illustrative embodiment, the process checks to see if a company website exists 401. The website can then be checked to see if, for example, without limitation, a searchable directory, contacts section, or location address is present 403. If there are one or more possible addresses, the possibilities can be presented and verified/selected. . . .
> *Numerous other online sources can also be polled, scanned, parsed and checked for possible addresses*. It is also possible that the system may apply some logic to the addresses to weed out certain addresses.

(Spec. ¶¶ 38–42, 52–53, 55 (emphases added).) Thus, Sommers' system automatically collecting and presenting meeting location options teaches, "automatically selecting a location" as claimed and described in Appellants' Specification. (Ans. 10.) Appellants' arguments have not addressed the Examiner's findings regarding Sommers' system collecting and presenting meeting location options based on an automatically calculated consensus. (Ans. 10.)

As further recognized by the Examiner, Sommers also teaches the claimed "presenting, by presentation circuitry, the location for verification." Sommers' system presents the automatically selected meeting location options to "the Meeting Coordinator [who] may take the next step 708 and choose which Meeting Location to hold the meeting. . . . [and who] has ultimate control over this selection process." (*See* Sommers ¶ 54; Ans. 10.)

We are also not persuaded by Appellants' arguments that Sommers does not teach "a meeting-attendee work-address listed on the [meeting-attendee company] website associated with the meeting-attendee." (App. Br. 9.) Appellants' arguments do not address the Examiner's findings that Sommers' Coordination Center is a "meeting-attendee company website" as claimed and includes "My Attendees" and "My Locations" webpages that are "similar to an address book" and "store contact information for meeting attendees . . . for use in future meetings." (*See* Sommers ¶¶ 43–44; Ans. 10–11 (citing Sommers ¶¶ 14, 43–44, Figs. 1, 2A–2B).) Sommers' Coordination Center webpages also "store the reported preferences of the invitees as well as the meeting preferences actually practiced by the invitees" to "assist the Meeting Coordinator in setting parameters for future meetings." (*See* Sommers ¶ 15.) We also agree with the Examiner that an attendee's office location—such as "Steve's Office upstairs" (*see* Sommers' Fig. 2B)—is a meeting-attendee work-address listed on the website (the Coordination Center) associated with the meeting-attendee (Steve), as required by claim 1. (Ans. 11 (citing Sommers ¶¶ 43–44, Figs. 1, 2A–2B).)

Appellants also argue Sommers does not teach location selection "*based on a meeting-attendee work-address listed on the website*"; rather, Sommers' location "selection is made 'based on a preference of an attendee

to attend the meeting at the selected location'." (App. Br. 9–10.) Appellants, however, have not rebutted the Examiner's finding that Sommers' system selects possible meeting location(s) from the Coordination Center's locations that include attendees' work-addresses (e.g., "Steve's Office upstairs"). (Ans. 10–11 (citing Sommers ¶¶ 39–44, 51–52).) Thus, Sommers' selecting a location from the Coordination Center's work-addresses teaches selecting a location based on a meeting-attendee work-address listed on the website, as required by claim 1. (Ans. 11.)

Appellants group together independent claims 1 and 21 and submit the same arguments for these claims. (App. Br. 10.) Accordingly, for the stated reasons, we sustain the rejection of claims 1 and 21, as well as dependent claims 2–7 and 9–12, for which no separate arguments are presented. 37 C.F.R. § 41.37(c)(1)(iv).

Rejection of Claims 13–17 under 35 U.S.C. § 102(b)

Appellants also contend the Examiner erred in finding Sommers discloses all the limitations of independent claim 13. (App. Br. 10–11.) Particularly, Appellants assert the Examiner erred in finding Sommers discloses "saving the meeting location, using saving circuitry, with respect to a contact relating to the meeting planner." (App. Br. 10.) Appellants argue, "nothing in the cited portion of the [Sommers] prior art teaches or suggests saving the information with respect to a contact relating to the meeting planner." (App. Br. 11.) We do not agree.

We agree with and adopt the Examiner's findings as our own. Particularly, we agree with the Examiner that Sommers teaches the claimed "saving the meeting location, using saving circuitry, with respect to a contact relating to the meeting planner." Sommers discloses saving a confirmed

"Meeting Location" with respect to (i) a contact (Meeting Attendee) to which the Meeting Coordinator sends a Meeting Confirmation email with the meeting location, and (ii) a contact for which the Meeting Coordinator "save[s] attendee contact information for use in future meetings," using the "My Attendees section or webpage . . . [which] is similar to an address book . . . [and] is used to store contact information for meeting attendees." (*See* Sommers ¶¶ 36, 43–44; Ans. 12 (citing Sommers ¶¶ 36, 43–44, 55–57, Fig. 1); *see also* Sommers ¶ 15 ("The system may store the reported preferences of the invitees as well as the meeting preferences actually practiced by the invitees. Such information may assist the Meeting Coordinator in setting parameters for future meetings").) Thus, Sommers teaches "saving" as recited in claim 13.

Accordingly, for the stated reasons, we sustain the rejection of claim 13, as well as claims 14–17 argued for their dependency from claim 13. (App. Br. 11.)

DECISION

The Examiner's rejection of claims 1–7, 9–17, and 21 under 35 U.S.C. § 101 is affirmed.

The Examiner's rejection of claims 1–7, 9–17, and 21 under 35 U.S.C. § 102(b) is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED